

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**SADARIS PHELPS**

**PLAINTIFF**

**v.**

**No: 4:18-cv-00686 KGB-PSH**

**RUSTY PAIGE, *et al.***

**DEFENDANTS**

**PROPOSED FINDINGS AND RECOMMENDATION**

**INSTRUCTIONS**

The following Proposed Findings and Recommendation have been sent to United States District Judge Kristine G. Baker. You may file written objections to all or part of this Recommendation. If you do so, those objections must: (1) specifically explain the factual and/or legal basis for your objection; and (2) be received by the Clerk of this Court within fourteen (14) days of this Recommendation. By not objecting, you may waive the right to appeal questions of fact.

**DISPOSITION**

Plaintiff Sadaris Phelps filed a *pro se* complaint, pursuant to 42 U.S.C. § 1983, on September 18, 2018 (Doc. No. 2). Mail sent to Phelps in December 2018 was returned as undeliverable, and the envelope was entered on the docket. Doc. No. 19. On January 8, 2019, the Court entered a text order notifying Phelps that the mail could not be delivered to him because he was no longer at the address he provided. Doc. No. 20. Phelps was directed to provide notice of his current mailing address by no later than thirty days from the entry of the January 8, 2019 text order. He was warned that his failure to provide a current mailing address would cause the

undersigned to recommend that his complaint be dismissed. A printed version of the text order was sent to him at his last known address, the Faulkner County Detention Center. Additionally, because the ADC's public website indicated Phelps may be held at the ADC's North Central Unit, the Clerk was directed to send a copy of the text order to Phelps at that location as well. The envelope containing the Court's January 8 order could not be delivered to Phelps at the Faulkner County Detention Center because he was no longer at that address, and the envelope was returned to the Clerk of the Court and entered on the docket. Doc. No. 21. The January 8 order mailed to Phelps at the ADC's North Central Unit has not been returned as undeliverable.

More than 30 days have passed, and Phelps has not complied or otherwise responded to the January 8 order. Additionally, Phelps failed to notify the Clerk and the other parties to the proceedings of a change in his address as required by Local Rule 5.5(c)(2). The Court therefore finds that this action should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2) and failure to respond to the Court's orders. *See Miller v. Benson*, 51 F.3d 166, 168 (8th Cir. 1995) (district courts have inherent power to dismiss *sua sponte* a case for failure to prosecute, and exercise of that power is reviewed for abuse of discretion).<sup>1</sup>

IT IS THEREFORE RECOMMENDED THAT Phelps' complaint (Doc. No. 2) and amended complaints (Doc. Nos. 16 and 18) be DISMISSED WITHOUT PREJUDICE.

DATED this 12th day of February, 2019.



UNITED STATES MAGISTRATE JUDGE

---

<sup>1</sup> The ADC's public website still indicates that Phelps is housed at the North Central Unit. The Clerk is directed to send this Recommendation to Phelps at his address of record and to the North Central Unit, 10 Prison Circle, Calico Rock, AR 72519.